

# HAND DELIVERED

STATE EMPLOYMENT  
RELATIONS BOARD  
2008 JUN 10 A 9:05

IN THE MATTER OF CONCILIATION :  
BETWEEN THE : SERB Case Numbers:  
CITY OF FOSTORIA, OHIO, : 2007-MED-10-1059  
EMPLOYER : 2007-MED-10-1060  
AND THE : Date of Conciliation Hearing:  
OHIO PATROLMEN'S BENEVOLENT : May 20, 2008  
ASSOCIATION, : Howard D. Silver  
UNION : Conciliator

## FINAL OFFER SETTLEMENT AWARD OF CONCILIATOR

### APPEARANCES

For: City of Fostoria, Ohio, Employer

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Toledo, Ohio 43604-1169

For: Ohio Patrolmen's Benevolent Association, Union

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This matter came on for conciliation hearing pursuant to Ohio Revised Code section 4117.14(G) at 10:00 a.m. on May 20, 2008 within the Municipal Building of the city of Fostoria, Ohio, 213 South Main Street, Fostoria, Ohio 44830. This conciliation proceeding concluded at 1:30 p.m. on May 20, 2008.

In accordance with Ohio Revised Code section 4117.14 (G) (3) and Ohio Administrative Code section 4117-9-06(E), both parties provided to the conciliator, at least five days prior to the conciliation hearing, the information required by this law and rule, including the identity of the representatives of the parties, a description of the bargaining units, copies of the current collective bargaining agreements, each party's final offer on the outstanding issues separating the parties, and a summary of each party's rationale for its position.

#### FINDINGS OF FACT

1. The parties to this conciliation proceeding are the city of Fostoria, Ohio, a public employer, and the Ohio Patrolmen's Benevolent Association, the exclusive representative of the city of Fostoria, Ohio's police department's bargaining units comprised of a bargaining unit of patrol officers and detectives, SERB case number 2007-MED-10-1059; and a separate bargaining unit of sergeants and captains, SERB case number 2007-MED-10-1060.
2. The bargaining unit containing patrol officers and detectives is comprised of nineteen members.
3. The bargaining unit containing sergeants and captains is comprised of five members.
4. The city of Fostoria, Ohio and the Ohio Patrolmen's Benevolent Association were parties to a collective bargaining agreement in effect from January 1, 2005 through December 31, 2007, for both the patrol officers

and detectives bargaining unit and for the sergeants and captains bargaining unit.

5. The city of Fostoria, Ohio and the Ohio Patrolmen's Benevolent Association have bargained and reached tentative agreement on all Articles for a successor collective bargaining agreement for each of the bargaining units except Articles on wages, voluntary overtime, insurance, holidays, longevity, equipment and uniforms, and duration.
6. At least five days prior to May 20, 2008, each party submitted to the conciliator a written presentation of each party's final offer as to each of the unresolved issues separating the parties.
7. Prior to this conciliation process, the parties underwent a fact-finding process which produced a fact finder's report on March 3, 2008.
8. The Employer's final offer on wages is a 2.5% wage increase effective January 1, 2008; January 1, 2009; and January 1, 2010.
9. The Union's final wage offer is a 3.0% wage increase effective January 1, 2008; January 1, 2009; and January 1, 2010, a final settlement offer that was amended from 3.25% effective January 1, 2008; 3.0% effective January 1, 2009; and 3.0% effective January 1, 2010, upon motion of the Union at the conciliation proceeding, a motion unopposed by the Employer and approved by the conciliator.
10. The final settlement offer from the Union on wages is below the recommended wage increase from the fact finder which was 3.25%, 3.0% and 3.0%.

11. The final settlement offer proposed by the Union on wages for Article 11 in the collective bargaining agreement covering the patrol officers and detectives, and Article 9 within the collective bargaining agreement covering sergeants and captains, is selected by the conciliator for inclusion in the parties' successor collective bargaining agreements.
12. At the conciliation proceeding the parties reached agreement on voluntary overtime, Article 12 within the patrol officers and detectives collective bargaining agreement, and Article 10 within the collective bargaining agreement of the sergeants and captains, with both parties agreeing to retain current language.
13. At the conciliation proceeding the parties reached agreement as to insurance, Article 17 within the patrol officers and detectives collective bargaining agreement, and Article 15 within the collective bargaining agreement of the sergeants and captains.
14. The health insurance Article shall be amended to require copays for generic, preferred, and non-preferred medicines for retail to be \$5.00, \$20.00, and \$40.00, respectively, and for mail order \$10.00, \$40.00, and \$80.00, respectively; with these copays to be effective January 1, 2009.
15. The Articles on insurance in the respective bargaining agreements, Articles 17 and 15, within section 1, paragraph C, shall retain current language to be in effect from January 1, 2008 through December 31, 2008, and effective January 1, 2009, the retail and mail order copays shall have retail prescriptions subject to a thirty-day supply maximum and among mail prescriptions a ninety-day supply maximum, with the plan totally funded by the city of Fostoria as per current policy.

16. At the conciliation proceeding the parties agreed to retain current language on holidays.
17. At the conciliation proceeding the parties agreed to retain current language on longevity.
18. At the conciliation proceeding the parties reached agreement on equipment and uniforms, Article 25 in the patrol officers and detectives collective bargaining agreement, and Article 23 in the sergeants and captains collective bargaining agreement.
19. Article 25 of the patrol officers and detectives collective bargaining agreement shall be amended within section 2 to increase the uniform allowance from \$700.00 to \$750.00 per year for each officer to furnish, replace, and maintain required uniforms that need replacement due to normal wear and tear.
20. In section 5 of Article 25 in the collective bargaining agreement covering detectives, a one-time clothing allowance shall be increased from \$200.00 to \$350.00, to be paid along with the regular uniform allowance.
21. In the collective bargaining agreement for sergeants and captains, within Article 23, section 2, the uniform allowance of \$700.00 shall be increased to \$750.00, and within section 5 of this Article, the \$200.00 for employees in the detective bureau and the SWAT team for clothing, in addition to the regular uniform allowance, shall be increased from \$200.00 to \$350.00.
22. New language within section 5 of each of the collective bargaining agreements in their respective Articles on equipment and uniforms provides that necessary Swat uniform and equipment items, as determined by the Chief, shall be provided at no cost to an employee so assigned.

23. At the conciliation proceeding the parties reached agreement as to the duration of the collective bargaining agreements, each to have a duration of three years, from January 1, 2008 through December 31, 2010.
24. The parties have entered into a conciliation agreement permitting the conciliator to award economic benefits effective January 1, 2008.

#### DISCUSSION

Ohio Revised Code section 4117.14(G)(7) presents the factors to be considered by the conciliator in choosing between the parties' final settlement offers. The factors are past collectively bargained agreements; comparison of the issues submitted to final offer settlement relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved; the interest and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service; the lawful authority of the public employer; the stipulations of the parties; and such other factors which are normally or traditionally taken into consideration in the determination of the issues submitted to final offer settlement through voluntary collective bargaining, mediation, fact-finding, or other impasse resolution procedures in the public service or in private employment.

The factors to be considered by the conciliator as expressed within Ohio Revised Code section 4117.14(G) (7) are also presented within Ohio Administrative Code section 4117-9-06(H) .

Ohio Revised Code section 4117.04(G) (11) provides that the parties may, at any time, amend or modify a conciliator's award or order by mutual agreement.

RECOMMENDED LANGUAGE

WAGES - Patrol Officers and Detectives

ARTICLE 11 - WAGES

Section 1 - Wages

New hires and/or employees of the City who are employed as officers in the City Police Department after the effective date of this Agreement shall be paid the following hourly rates during the term of this Agreement. Any persons hired before the signing of this agreement will be at Step 6 regardless of seniority.

<u>Eff. Date</u>	<u>Step 1.</u>	<u>Step 2.</u> 6 mos.	<u>Step 3.</u> 12 mos.	<u>Step 4.</u> 12 mos.	<u>Step 5.</u> 12 mos.	<u>Step 6.</u> TOP
01/01/08	\$17.53	\$19.41	\$20.57	\$21.66	\$23.65	\$25.09
01/01/09	\$18.06	\$20.00	\$21.19	\$22.31	\$24.36	\$25.84
01/01/10	\$18.60	\$20.60	\$21.82	\$22.98	\$25.09	\$26.62

NOTE: When both the Sergeant and Captain are not working, the officer designated as Officer in Charge shall receive five percent (5%) above Step 5 of the Patrolmen's rate for the hours worked as Officer in Charge.

Miscellaneous Provisions

1. The length of time required to be served in each Step shall be as follows:

<u>Step 1.</u>	<u>Step 2.</u>	<u>Step 3.</u>	<u>Step 4.</u>	<u>Step 5.</u>	<u>Step 6.</u>
6 months	12 months (after 6 months)	12 months (after 18 months)	12 months (after 30 months)	12 months (after 42 mos.)	Top (after 54 mos.)

2. The effective date for pay progression shall be the start of the work week closest to the employee's classification seniority date.
3. Step Increases - Officers shall receive step increases after serving the designated years in the entitled step until the maximum step is reached.
4. The City has the right to hire a police officer at a rate higher than the starting rate.

WAGES - Sergeants and Captains

ARTICLE 9 - WAGES

Section 1. Sergeants' Rates

Wage rates for Sergeants during the term of this Agreement shall be as follows:

- A. Any police officer who becomes a Sergeant after the effective date of this Agreement shall start at Step A of the Sergeant's progression schedule.
- B. A Sergeant who has completed Steps A and B of the Sergeant's service schedule shall be paid a regular hourly rate of twelve percent (12%) above the top hourly rate of the patrolmen's base rate.
- C. Step A of the Sergeant's rate in its progression schedule shall be established as six percent (6%) above the top hourly rate of the patrolman's base rate.
- D. Step B of the Sergeant's rate shall be established as nine percent (9%) above the top hourly rate of the patrolman's base rate.
- E. The length of time required to be served as a Sergeant in each step of the Sergeant's progression schedule under this Agreement shall be as follows:

Step A - 12 months  
Step B - 12 Months  
Step C - Top rate

All persons promoted to the rank of sergeant before the signing of this agreement will be placed in Step C regardless of time in this position.



Section 2. Captains' Rates

Wage rates for Captains during the term of this Agreement shall be as follows:

- A. Any Sergeant or patrol officer who becomes a Captain after the effective date of this Agreement shall start at Step A of the Captain's progressions schedule.
- B. A Captain who has completed Steps A and B of the Captain's service schedule shall be paid a regular hourly rate of twelve percent (12%) above the top hourly rate of the Sergeant base rate.
- C. Step A of the Captain's rate shall be four percent (4%) above the top hourly rate of the Sergeant base rate.
- D. Step B of the Captain's rate shall be eight percent (8%) above the top hourly rate of the Sergeant base rate.
- E. The length of time required to be served as a Captain in the Captains' progression schedule shall be as follows:

- Step A - 12 months
- Step B - 12 months
- Step C - Top rate

Section 3.

Each newly appointed Sergeant or Captain shall serve a promotional probationary period not to exceed one hundred eighty (180) calendar days from the date of appointment. No probationary Sergeant or Captain may be removed or reduced, except for just cause or lack of work or other legitimate reasons. If a probationary Sergeant or Captain is reduced he/she shall be returned to his/her former rank with no break in rank or department seniority.

VOLUNTARY OVERTIME - Patrol Officers and Detectives

Article 12 - Overtime

Retain current contract language.

VOLUNTARY OVERTIME - Sergeants and Captains

Article 10 - Voluntary Overtime

Retain current contract language.

INSURANCE - Patrol Officers and Detectives

Article 17 - Insurance

Section 1. Coverage

The City shall provide employees with the following life, hospitalization, medical, surgical and dental insurance during the term of this Agreement.

- A. Group life insurance in the amount of twenty-five thousand dollars (\$25,000) each year of this Agreement. However, employees shall have the option of buying additional group life insurance (term) in increments of five thousand dollars (\$5,000) up to a total of fifteen thousand dollars (\$15,000), if possible.
- B. Hospital, surgical and major medical insurance for the employee and his/her family as in effect as of the effective date of this Agreement.
- C. Effective January 1, 2008, the City shall provide a prescription drug plan with a maximum of a sixty (60) day supply and subject to an employee out-of-pocket charge of five dollars (\$5.00) for generic and ten dollars (\$10.00) for non-generic. If generic is available, but not utilized, the employee's out-of-pocket charge will be fifteen dollars (\$15.00) or 20 percent (20%) of the cost up to \$50.00, whichever is greater. The plan is to be totally funded by the City as per current policy.

Effective January 1, 2009 the City shall provide a prescription drug plan as follows:

<u>Co-Pay</u>	<u>Retail</u>	<u>Mail Order</u>
Generic	\$5.00	\$10.00
Preferred	\$20.00	\$40.00
Non-Preferred	\$40.00	\$80.00

Retail prescriptions are subject to a thirty (30) day supply maximum and mail prescriptions are subject to a ninety (90) day supply maximum. The plan is to be totally funded by the City as per current policy.

- D. The City shall provide to the members the same optical benefits as provided to the non-union employees of the city.
- E. The City shall provide to members of the bargaining unit the same dental benefit, at the same cost (if any) provided to non-bargaining unit employees of the City.

### Section 2. Coordination of Benefits

All benefits herein described shall be subject to coordination of benefits in accordance with the provision of any master agreement between an insurance carrier and the City or between the group insurance provided by any other carrier under which an employee is eligible for coverage.

### Section 3. Subrogation

If any employee or member covered by the provisions of this Article incurs medical expenses in connection with the treatment of an illness or injury caused by the negligence or wrongful act of a third party, the City, its insurance carrier or its assignee shall be subrogated to all the covered member's rights or recovery against said third party to the extent of any and all payments made hereunder with respect to such illness or injury, and said member or his/her appropriate agent shall execute all papers and take all action necessary and proper to secure to the insurance carrier or its assignee rights or subrogation.

### Section 4.

The City retains its rights to change insurance carriers or to have its insurance provided by a third party administrator.

### Section 5.

- A. The City shall pay ninety percent (90%) of the amount necessary to fund the plan for each employee's hospitalization and the employee shall contribute the sum of ten percent (10%) of the cost with the employee's share to be withheld from the employee's check.

INSURANCE - Sergeants and Captains

Article 15 - Insurance

Section 1. Coverage

The City shall provide employees with the following life, hospitalization, medical, surgical and dental insurance during the term of this Agreement.

- A. Group life insurance in the amount of twenty-five thousand dollars (\$25,000) each year of this Agreement. However, employees shall have the option of buying additional group life insurance (term) in increments of five thousand dollars (\$5,000) up to a total of fifteen thousand dollars (\$15,000), if possible.
- B. Hospital, surgical and major medical insurance for the employee and his/her family as in effect as of the effective date of this Agreement.
- C. Effective January 1, 2008, the City shall provide a prescription drug plan with a maximum of a sixty (60) day supply and subject to an employee out-of-pocket charge of five dollars (\$5.00) for generic and ten dollars (\$10.00) for non-generic. If generic is available, but not utilized, the employee's out-of-pocket charge will be fifteen dollars (\$15.00) or 20 percent (20%) of the cost up to \$50.00, whichever is greater. The plan is to be totally funded by the City as per current policy.

Effective January 1, 2009 the City shall provide a prescription drug plan as follows:

<u>Co-Pay</u>	<u>Retail</u>	<u>Mail Order</u>
Generic	\$5.00	\$10.00
Preferred	\$20.00	\$40.00
Non-Preferred	\$40.00	\$80.00

Retail prescriptions are subject to a thirty (30) day supply maximum and mail prescriptions are subject to a ninety (90) day supply maximum. The plan is to be totally funded by the City as per current policy.

- D. The City shall provide to the members the same optical benefits as provided to the non-union employees of the city.

- E. The City shall provide to members of the bargaining unit the same dental benefit, at the same cost (if any) provided to non-bargaining unit employees of the City.

Section 2. Coordination of Benefits

All benefits herein described shall be subject to coordination of benefits in accordance with the provision of any master agreement between an insurance carrier and the City or between the group insurance provided by any other carrier under which an employee is eligible for coverage.

Section 3. Subrogation

If any employee or member covered by the provisions of this Article incurs medical expenses in connection with the treatment of an illness or injury caused by the negligence or wrongful act of a third party, the City, its insurance carrier or its assignee shall be subrogated to all the covered member's rights or recovery against said third party to the extent of any and all payments made hereunder with respect to such illness or injury, and said member or his/her appropriate agent shall execute all papers and take all action necessary and proper to secure to the insurance carrier or its assignee rights or subrogation.

Section 4.

The City retains its rights to change insurance carriers or to have its insurance provided by a third party administrator.

Section 5.

- A. The City shall pay ninety percent (90%) of the amount determined to fund the plan for each employee's hospitalization and the employee shall contribute the sum of ten percent (10%) of the cost with the employee's share to be withheld from the employee's check.

HOLIDAYS - Patrol Officers and Detectives

Article 18 - Holidays

Retain current contract language.

HOLIDAYS - Sergeants and Captains

Article 16 - Holidays

Retain current contract language.

LONGEVITY - Patrol Officers and Detectives

Article 21 - Longevity

Retain current contract language.

LONGEVITY - Sergeants and Captains

Article 19 - Longevity

Retain current contract language.

EQUIPMENT AND UNIFORMS - Patrol Officers and Detectives

Article 25 - Equipment and Uniforms

Section 1. - Equipment

Management shall furnish and/or replace all firearms, handcuffs, mace, ammunition, badge and leather goods necessary to the employees in the performance of their duties.

Section 2. - Uniforms

Management shall furnish and/or replace all required uniforms damaged in the line of duty. Management shall provide a uniform allowance of seven hundred fifty dollars (\$750) per year for each officer in order to furnish, replace and maintain required uniforms that need replacement due to normal wear and tear. Where the City orders a new uniform item to be part of the official uniform, and such new item renders old uniform items obsolete within one (1) year of the date of the order, or where the required new item is an additional uniform item, the City shall furnish the new item without charge to the uniform allowance. New officers shall be fully equipped with a uniform only during their first year on the force. Payments shall be on an annual basis for January 1st through

December 31st. Requisitions shall not be submitted later than December 1st of each year.

### Section 3. Personal Property

Management shall replace or repair all personal property of the employee commonly worn or used while working which is damaged in the line of duty up to a maximum of one hundred fifty dollars (\$150) per officer per incident, so long as such damage is not due to the employee's negligence.

### Section 4. Standards

The Chief or his/her designee with the approval of the Safety-Service Director, will determine the minimum uniform and plain clothes requirements.

### Section 5.

In case of promotions, the City will reimburse Sergeants and Captains for the original costs of required change in uniforms and accessories.

If an employee is placed into the Detective Bureau an additional three hundred fifty dollars (\$350) for clothing will be granted along with the regular uniform allowance. This will be paid only once.

Necessary SWAT uniform and equipment items, as determined by the Chief, shall be provided at no cost to the employee so assigned.

### Section 6. Exercise Equipment

The City shall furnish and maintain all present exercise equipment. The Employees Relations Committee will meet and discuss the need for additional or new exercise equipment.

### Section 7. Practice Ammunition

The City will supply each officer including specialized response team members with no more than two hundred (200) rounds of practice ammunition each calendar quarter for duty weapons. Each officer must turn in brass and/or unfired ammunition to the range office which is approximately equivalent to the last quarter issue to receive the next quarter issue. Upon request, additional ammunition may be supplied for practice purposes upon approval of the Chief. Each patrol officer will be required to qualify with

firearms in accordance with the Regulations of the Fostoria Police Department no more than four (4) times each year.

EQUIPMENT AND UNIFORMS - Sergeants and Captains

Article 23 - Equipment and Uniforms

Section 1. - Equipment

Management shall furnish and/or replace all firearms, handcuffs, mace, ammunition, badge and leather goods necessary to the employees in the performance of their duties.

Section 2. - Uniforms

Management shall furnish and/or replace all required uniforms, if any. Management shall provide a uniform allowance of seven hundred fifty dollars (\$750) per year for each officer in order to furnish, replace and maintain required uniforms. Where the Employer orders a new uniform item to be part of the official uniform, and such new item renders old uniform items obsolete within one (1) year of the date of the order, or where the required new item is an additional uniform item, the Employer shall furnish the new item without charge to the uniform allowance. Payments shall be on an annual basis for January 1st through December 31st. Requisitions must be submitted by December 1st of each year.

Section 3. Personal Property

Management shall replace or repair all personal property of the employee commonly worn or used while working which is damaged in the line of duty up to a maximum of one hundred fifty dollars (\$150) per officer per incident, so long as such damage is not due to the employee's negligence.

Section 4. Standards

The Chief or his/her designee with the approval of the Safety-Service Director, will determine the minimum uniform and plain clothes requirements.

Section 5.

In case of promotions, the City will reimburse Sergeants and Captains for the original costs of required change in uniforms and accessories.



If an employee is placed into the Detective Bureau an additional three hundred fifty dollars (\$350) for clothing will be granted along with the regular uniform allowance. This will be paid only once.

Necessary SWAT uniform and equipment items, as determined by the Chief, shall be provided at no cost to the employee so assigned.

Section 6.

The City shall furnish and maintain all present exercise equipment. The Employees Relations Committee will meet and discuss the need for additional or new exercise equipment.

Section 7. Practice Ammunition

The City will supply to each command officer four (4) boxes consisting of two hundred (200) rounds of practice ammunition each calendar quarter. This will be for duty weapons only. The employee must at the end of each calendar quarter turn in his/her unfired or fired ammunition which is approximately equivalent to the last quarter's issue to receive his next allowance. This will be turned into the range officer.

Each Sergeant or Captain will be required to qualify with firearms in accordance with the Regulations of the Fostoria police department no more than four (4) times per year.

DURATION - Patrol Officers and Detectives

Article 33 - Duration of Agreement

This Agreement shall be effective as of January 1, 2008 and shall remain in effect through December 31, 2010 and shall continue thereafter for successive periods of twelve (12) months, unless either party to this Agreement on or before sixty (60) days prior to the expiration of any such period, notifies the other party, in writing, of its intention to terminate this Agreement. Within ten (10) days after receipt of such notice, a conference shall be arranged between the parties hereto and such conference shall be held at a time mutually agreeable to the parties.

DURATION - Sergeants and Captains

Article 31 - Duration of Agreement

This Agreement shall be effective as of January 1, 2008 and shall remain in effect through December 31, 2010, and shall continue thereafter for successive periods of twelve (12) months, unless either party to this Agreement on or before sixty (60) days prior to the expiration of any such period, notifies the other party, in writing, of its intention to terminate this Agreement. Within ten (10) days after receipt of such notice, a conference shall be held at a time mutually agreeable to the parties.

In addition to the conciliation language selected through this award, the conciliator adopts by reference, as if fully rewritten herein, all other Articles tentatively agreed by the parties for inclusion in the parties' successor collective bargaining agreements.

In making the conciliation decisions presented in this report, the conciliator has considered the criteria required by Ohio Revised code section 4117.14(G)(7) and section 4117-9-06(H) of the Ohio Administrative Code.



Howard D. Silver  
Conciliator

June 10, 2008  
Columbus, Ohio

CERTIFICATE OF SERVICE

I hereby certify that the foregoing Final Offer Settlement Award in the Matter of Conciliation between the City of Fostoria, Ohio and the Ohio Patrolmen's Benevolent Association was filed with the State Employment Relations Board, via hand-delivery, and faxed and mailed this 10th day of June, 2006 to:

David M. Smigelski, Esquire  
SPENGLER NATHANSON P.L.L.  
Attorneys At Law  
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Toledo, Ohio 43604-1169

and

Joseph M. Hegedus, Esquire  
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92 North Woods Boulevard, Suite B-2  
Columbus, Ohio 43235

  
Howard D. Silver  
Conciliator

June 10, 2008  
Columbus, Ohio